

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13901, of Robert Andrews, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Sub-section 3103.3) for a proposed addition to and conversion of a single family row dwelling into a flat in an R-3 District at premises 4428 Volta Place, N.W., (Square 1353, Lot 42).

HEARING DATE: January 26, 1983

DECISION DATE: January 26, 1983 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is located on the south side of Volta Place, N.W., between Foxhall Road and 44th Street and is known as premises 4428 Volta Place, N.W. It is in an R-3 District.

2. The property is improved with a two-story plus basement brick single family row dwelling. The structure's architectural design and style is similar to all other structures on the block except one. The similar structures are all built on a slope which sets the basement at grade in the rear and below grade in the front. A public alley provides access to the rear of Volta Place properties, from which on-site parking is available.

3. The premises is presently being used as a single family dwelling by the owner-applicant, who has resided therein for some fourteen years.

4. The area surrounding the site consists primarily of single family row and detached dwellings. Across Foxhall Road, west of the subject premises and south of the Foxhall Road and Q Street, N.W. intersection is the Hardy Middle School. The area zoning is predominantly R-3 and R-1-B east and west of Foxhall Road, respectively.

5. The applicant proposes to add a 76.5 square foot single story addition to the rear of the existing structure. The addition will provide separate access to the basement of the existing structure, which the applicant proposes to convert into private living quarters.

6. The applicant testified that the subject structure could continue to be used as a single family dwelling as it has always been used. The applicant is seventy-six years

old, lives alone and no longer requires the entire space included in the subject structure. The applicant further testified that he does not wish to quit the subject premises and seek smaller accommodations. He testified that he is happy in the neighborhood and the site is convenient for him to pursue his personal interests and shopping needs. The applicant was adverse to the suggestion that he consider taking in roomers, on the grounds that such would interfere with his life style.

7. A flat is first permitted in an R-4 District. A use variance, required for a flat in an R-3 District, can be granted only if an applicant proves that there is a condition inherent in and peculiar to the subject premises such that strict application of the Regulations would result in undue hardship upon the owner. Also, there must be a showing that the use variance can be granted without substantial adverse impacts and that its granting will not impair the intent, purpose, and integrity of the zone plan. In short, the Board must be able to find that there is no reasonable use that can be made of the property for a purpose permitted in the R-3 District.

8. The applicant testified that there is no such peculiar characteristic in the subject site. The Board so finds. In addition, the Board finds that the property has been, is being and can continue to be used as a single family dwelling, a use permitted in the R-3 District.

9. The applicant testified that he was aware of the many letters of record opposing the application on the grounds that the proposed use would severely detract from the single family character of the neighborhood, would exacerbate traffic congestion and would add noise to a tranquil area. The applicant testified that he could accept a condition from the Board that the requested relief be granted only for his life time.

10. At the close of the applicant's case-in-chief, the Board DENIED the application for failure to meet the burden of proof. No further testimony was taken, including the reports of the Office of Planning, the Advisory Neighborhood Commission and the Foxhall Community Citizens Association all of which were of record.

CONCLUSIONS OF LAW AND OPINION:


Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking a use variance, the granting of which requires proof of a hardship that is intrinsic to a property which precludes the reasonable use of that property for purposes for which it is zoned. The Board concludes that there is no probative evidence of such a hardship on record. The Board concludes

that the applicant's request derives from a personal desire to continue his lifestyle. The Board concludes that the subject property has been, is being and can continue to be used as a single family dwelling. The applicant is able to further continue the property as a single family unit. The applicant's hardship is founded on a wish to maintain himself as an independent senior citizen homeowner. However meritorious that may be, such a reason is not cause to grant a use variance. According, it is ORDERED that the application is DENIED.

VOTE: 5-0 (Douglas J. Patton, Walter B. Lewis, Carrie Thornhill, William F. McIntosh and Charles R. Norris to DENY).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: MAY 23 1983

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

13901order/JANE